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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,242	07/23/2001	Daniel L. Poole	5658/746	4793

24239 7590 12/21/2004

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EXAMINER
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MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/911,242

**Applicant(s)**

POOLE ET AL.

**Examiner**

Debra S Meislin

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-10 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-10 and 16-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer in view of Beesley et al and Sorensen et al (5222420).

Greer discloses all of the claimed subject matter except for having a pivotally mounted upper jaw with a spring, a ratcheting mechanism/incremental teeth on the slide for engagement with the brake, and the lower jaw having an upper portion not intersecting the slide bar and supported only by the lower portion of the lower jaw. Greer discloses a lower jaw "5" having a lower portion, and an upper portion intersecting the slide bar and supported by the lower portion and the slide bar. The lower jaw of Greer further discloses a lever pivotally mounted thereon between the first and second portions, and a portion "11" of the lever extends longitudinally substantially the same length as the lower portion of the lower jaw, as broadly claimed by applicant.

Beesley et al discloses a pivotally mounted upper jaw with a spring and a ratcheting mechanism/incremental teeth on the slide for engagement with the brake. It would have been obvious to one having ordinary skill in the art to form the device of Greer with a pivotally mounted upper jaw with a spring and a ratcheting mechanism/incremental teeth on the slide for engagement with the brake to allow the

jaws to be adjusted and for quick and easy operation to grip a workpiece as taught by Beesley et al.

Sorensen et al (figure 11) discloses a lower jaw having an upper portion not intersecting the slide bar and supported only by the lower portion of the lower jaw. The lower jaw of Sorensen et al further discloses a lever pivotally mounted thereon between the first and second portions thereof. It would have been obvious to one having ordinary skill in the art to form the lower jaw of Greer with an upper portion that does not intersect the slide bar and is supported only by the lower portion of the lower jaw as such would have been an obvious design choice to allow for reduced friction as inherently taught by Sorensen et al.

3. Claims 4-7, 16-17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer in view of Rhyn and Sorensen et al (5222420).

Greer discloses all of the claimed subject matter except for having a pivotally mounted upper jaw with a spring biasing the upper jaw toward the lower jaw and the lower jaw having an upper portion not intersecting the slide bar and supported only by the lower portion of the lower jaw. Greer discloses a lower jaw "5" having a lower portion, and an upper portion intersecting the slide bar and supported by the lower portion and the slide bar. The lower jaw of Greer further discloses a lever pivotally mounted thereon between the first and second portions, and a portion "11" of the lever extends longitudinally substantially the same length as the lower portion of the lower jaw, as broadly claimed by applicant.

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Rhyn discloses a pivotally mounted upper jaw with a spring biasing the upper jaw toward the lower jaw. Note column 2, lines 3-6 and 18-22 of Rhyn which states the following:

- a. "On turning the lever in the direction of the hand without this positive bearing insuring only a limited play of the jaw A, it would be difficult to use the tool with one hand."
- b. "the jaw can turn back under a slight pressure, but not sufficiently to permit the tool to slip from the pipe, while the spring will clamp the jaws on the pipe in turning forward"

It would have been obvious to one having ordinary skill in the art to form the device of Greer with a spring biasing the upper jaw toward the lower jaw to clamp the jaws on a pipe as taught by Rhyn.

With respect to claim 6, Greer clearly discloses a "thumb-resting portion" as shown by the knurled surface on the edge of the lower jaw "5" (figures 1 and 2).

Sorensen et al (figure 11) discloses a lower jaw having an upper portion not intersecting the slide bar and supported only by the lower portion of the lower jaw. The lower jaw of Sorensen et al further discloses a lever pivotally mounted thereon between the first and second portions thereof. It would have been obvious to one having ordinary skill in the art to form the lower jaw of Greer with an upper portion that is does not intersect the slide bar and is supported only by the lower portion of the lower jaw as such would have been an obvious design choice and to allow for reduced friction as inherently taught by Sorensen et al.

4. Claims 8-10, 18-20, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer in view of Rhyn and Sorensen et al (5222420), as applied above, in further view of Beesley et al.

Beesley et al discloses a ratcheting mechanism/incremental teeth on the slide for engagement with the brake and gripping surfaces on the jaw. With respect to claim 28, it is noted that the lower jaw of Beesley et al is subject to motion toward the upper jaw when the lever is engaged, and is subject to motion to and from the upper jaw with the lever is disengaged. It would have been obvious to one having ordinary skill in the art to form the device of Greer with a ratcheting mechanism/incremental teeth on the slide for engagement with the brake and gripping surfaces on the jaw to allow the jaws to be adjusted and for quick and easy operation to grip a workpiece as taught by Beesley et al.

5. Applicant's arguments filed December 02, 2004 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 4-10 and 16-29 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin  
Primary Examiner  
Art Unit 3723

December 13, 2004